

## GOAL 9: A CREDIBLE DETERRENT TO POLLUTION AND GREATER COMPLIANCE WITH THE LAW

**EPA will ensure full compliance with laws intended to protect human health and the environment.**

### PROGRESS TOWARD THE STRATEGIC GOAL AND OBJECTIVES

A vigorous enforcement and compliance program remains a priority of EPA and is central to achieving the Agency's mission of protecting human health and the environment. Integral to achieving this mission is ensuring compliance with environmental laws on the part of the regulated community. EPA focuses its efforts on developing strategies that combine assistance, incentives, and enforcement in order to mitigate significant environmental risk and ensure compliance. As a result of these strategies, the regulated community corrects violations of environmental law, returns to compliance, and reduces the quantity of pollutants released into the environment.

EPA is improving the quality and accuracy of enforcement and compliance data through the design and implementation of the new Integrated Compliance Information System (ICIS). Already partially implemented, this system will enhance the ability of the Agency and states to identify and target inspections and enforcement toward the most serious non-compliance and address the most significant air, water, and land pollution problems; and the most significant human health risks.<sup>1</sup>

EPA also continues to review and improve the analyses of the compliance and environmental data routinely collected through its monitoring, compliance incentives, compliance assistance, and enforcement programs. The effort is designed to better evaluate the outcomes achieved by ensuring compliance with federal environmental statutes. For FY 2002 EPA is now able to better report the results of settled enforcement cases in gallons of polluted groundwater to be treated—2.8 billion, the

pounds of contaminated soils to be cleaned up—503 million, and the acres of wetlands to be protected—about 40,000.<sup>2</sup>

EPA consistently exceeds its annual goals to promote compliance within the regulated community through voluntary compliance incentive and assistance programs. Over the past 3 years, 5,421 facilities took advantage of voluntary programs to identify, self-disclose, and correct compliance violations. EPA is expanding efforts to encourage disclosure by companies suspected of having serious violations. In the past 3 years, nearly 1.5 million entities have received compliance assistance materials and have visited EPA Compliance Assistance Centers more than 1.6 million times.<sup>3</sup>

### FY 2002 PERFORMANCE

During FY 2002 EPA, along with state and tribal partners, provided assistance to help facilities comply with environmental laws, completed agreements with companies to conduct their own self-audits and correct violations, and took civil and criminal enforcement actions to address noncompliance associated with serious environmental problems and ensure fairness in the marketplace. In FY 2002 approximately 157,000 pounds of pollutants were reduced, treated, or properly managed per enforcement workyear; approximately \$2.4 million of injunctive relief was collected per enforcement workyear; and approximately \$34,000 was committed to Supplemental Environmental Projects (SEPs) per enforcement workyear.<sup>4</sup>

### Enforcing the Law, Achieving Results

EPA continues to focus its enforcement efforts on resolving the worst environmental

problems and achieving environmental results by bringing the most egregious violators into compliance with environmental laws. Through these efforts, EPA seeks to maintain a level playing field for the Nation's industries by ensuring that no company secures a competitive advantage through noncompliance. When enforcement actions are necessary, the vast majority of civil enforcement actions require facilities to take direct action to correct illegal discharges of pollutants and/or change facility management and information practices, such as record keeping. The Agency does not, however, establish quotas for the number of enforcement cases to be pursued. The anticipated amounts of pollutants to be reduced during a fiscal year are estimates based on the results of concluded enforcement actions from previous years, and often vary dramatically from year to year. During FY 2002 the Agency secured 261 million pounds of pollutants to be reduced through settled enforcement cases, falling short of its target of 300 million pounds.

In FY 2002 EPA conducted 17,668 inspections and 541 intensive civil compliance investigations to determine the compliance status of regulated facilities and to help deter facilities from lapsing into noncompliance.<sup>5</sup> These inspections and investigations resulted in the identification of a number of serious environmental violations, including, but not limited to, pollutant releases not allowed by permit, illegal storage of hazardous waste, and the discharge of oil in harmful quantities into U.S. waters. Findings from a recent analysis of the effectiveness of compliance inspections indicate that 50 percent of all stationary air and water inspections, pesticide and toxic chemical laboratory facility inspections, and lead-based paint building inspections resulted in the identification of environmental violations.<sup>6</sup> Ten percent of the inspections prompted corrective action to immediately address environmental and human health risks from excessive air and water pollution.

EPA calculates statistically valid compliance rates to determine the level of compliance for an entire population, not just for the subset of inspected facilities.<sup>7</sup> The Agency analyzes

compliance across an entire regulatory population, rather than assessing a subset of inspected facilities in order to obtain a more accurate picture of compliance patterns across sectors and states. EPA uses analyses of compliance trends to determine where the most significant environmental problems are, and where best to focus its resources. In FY 2002 EPA calculated statistically valid compliance rates for the following areas: municipality compliance with the nine minimum controls to prevent, monitor, and control combined sewer overflows; commercial facilities compliance with Clean Air Maximum Achievable Control Technology standards for ethylene oxide; municipality compliance with biological oxygen demand and total suspended solid permit limits; and petroleum refining facilities compliance with ammonia permit limits. EPA also calculated statistically valid compliance rates from self-reported data under the Clean Water Act for compliance of municipalities with biological oxygen demand and total suspended solids permitted discharge limits, and compliance of oil refineries with ammonia-N permitted discharge limits. These inspection numbers include state and local inspections as well as federal inspections. The results will be available in the second quarter of FY 2003.

EPA's FY 2002 enforcement actions resulted in the prevention and/or reduction of emissions or discharges by an estimated 261 million pounds of pollutants, the treatment of an additional 503 million pounds of contaminated soil and sediments, and 2.8 billion gallons of contaminated groundwater to be treated. In FY 2002, 37 percent of concluded enforcement actions directed improvements in the use or handling of pollutants, such as changes in industrial processes or storage and disposal practices. About 62 percent of actions directed improvements in facility environmental management practices, including testing, training, and overall improvements to environmental management systems. In FY 2002 polluters were required to invest more than \$3.9 billion in injunctive relief (actions necessary to correct violations), and to take additional steps to protect the environment. The settlement of

## HOMELAND SECURITY ACCOMPLISHMENTS

EPA's criminal enforcement program effectively responded to the terrorist events of September 11, 2001. Throughout FY 2002 EPA provided crisis and consequence management support—investigative, forensic, technical—to federal, state, county, local, and tribal governments and training for homeland security related environmental, chemical, or biological incidents involving violations of environmental law. EPA supported federal security efforts at designated National Security Special Events including the Superbowl and the Winter Olympics. Agency investigative and technical forensic personnel participated in the federal government's Capitol Hill anthrax investigations in the Hart, Ford, Longworth, and Dirksen office buildings, and at the General Services Administration facility in Springfield, Virginia. EPA also provided personal protective equipment training to a number of major county sheriffs departments, and provided environmental threat identification and warning assistance to 95 Department of Justice Anti-terrorism Task Forces.

enforcement cases often produces SEPs, through which violators perform additional environmentally beneficial projects beyond any injunctive relief in exchange for a penalty reduction. SEPs totaled \$56.4 million in FY 2002.<sup>8</sup>

EPA addresses noncompliance with enforcement actions appropriate to the violation. Civil administrative and judicial actions and civil referrals to the Department of Justice (DOJ), civil judicial settlements, or criminal referrals to DOJ serve as a deterrent for other potential noncompliers, secure environmental benefits, protect communities and the environment, and ensure fairness to companies that invest in compliance with environmental laws. EPA enforcement actions against noncomplying facilities often result in outcomes such as improvements in environmental management practices by facilities, improved or enhanced monitoring and reporting, special projects benefitting the environment, and significant reductions of pollutant discharges to the air, water, or land.

During FY 2002 EPA conducted a strong criminal enforcement program, emphasizing environmental results and effective partnerships with federal, state, tribal, and local governments. The criminal enforcement program focused on investigations of knowing and willful violations that pose a significant threat to human health and the environment. The cases taken provide an effective deterrent by incorporating high fines, restitution, and jail sentences. EPA helped

prosecute cases that resulted in 215 years of incarceration and \$62 million in fines and restitution in FY 2002.<sup>9</sup>

In FY 2002 EPA initiated 3,062 civil, judicial, and administrative enforcement actions; opened 674 criminal investigations, 190 of which were counterterrorism related; and referred 250 criminal cases to the DOJ, as illustrated by the following significant civil and criminal enforcement cases.<sup>10</sup>

### City of Baltimore Settlement: In

September 2002 the U.S. District Court entered a consent decree to implement a settlement between EPA and the city to end discharge of untreated sewage. Consent Decree in *United States et al. v. Mayor and City of Baltimore*, JFM 02 CV1524 (September 30, 2002). Because of years of neglect, an estimated 30 million gallons of untreated sewage was discharged annually, contaminating Baltimore's water with bacteria, pathogens, and other harmful pollutants. Complaint in *United States et al. v. Mayor and City of Baltimore*, JFM 02 CV1524. The city was assessed a civil penalty of \$600,000. The facility improvements required under this enforcement action will cost Baltimore about \$940 million to rehabilitate and repair pumping stations and eliminate raw sewage discharge. Consent Decree at Sections VI and VIII in *United States et al. v. Mayor and City of Baltimore*, JFM 02 CV1524 (September 30, 2002). The city also agreed to implement a SEP to design, install, and operate a biological nutrient-reduction facility at the city-owned Patapsco Wastewater Treatment

Plant that will improve the water quality of the Chesapeake Bay by significantly reducing the amount of nitrogen nutrient runoff entering the bay. Consent Decree at Section X in *United States et al. v. Mayor and City of Baltimore*, JFM 02 CV1524 (September 30, 2002).

**PSEG Fossil LLC Settlement:** In FY 2002 EPA and the State of New Jersey concluded a major settlement with PSEG for violations of the Clean Air Act (CAA) at its coal-fired power plants in Jersey City and Hamilton, New Jersey. Consent Decree in *United States et al. v. PSEG Fossil LLC*, Civil Action No. 02-340 (JCL) (July 26, 2002) <http://www.epa.gov/compliance/resources/cases/civil/caa/psegllc.html>. PSEG paid a \$1.4 million civil penalty and will spend about \$337 million to install state-of-the-art pollution controls to reduce the emissions of sulfur dioxide (SO<sub>2</sub>) by 90 percent and reduce nitrogen oxides (NO<sub>x</sub>) more than 80 percent. These improvements will ultimately reduce 36,000 tons of SO<sub>2</sub> and 18,000 tons of NO<sub>x</sub> per year. Consent Decree at Sections IV and X in *United States et al. v. PSEG Fossil LLC*, Civil Action No. 02-340 (JCL) (July 26, 2002). The company also agreed to three SEPs that will cost the company \$6 million to (1) voluntarily reduce carbon dioxide emissions by 15 percent; (2) contribute to New Jersey's ongoing efforts to recover and use methane gas from landfills; and (3) develop ways to reduce and monitor mercury emissions from its plants. Consent Decree at Section VIII in *United States et al. v. PSEG Fossil LLC*, Civil Action No. 02-340 (JCL) (July 26, 2002).

**Lee Brass Settlement:** EPA, the DOJ, and the State of Alabama concluded a judicial action against Lee Brass Company, Inc., for violations of the Resource Conservation and Recovery Act (RCRA) that resulted in public exposure to excessive levels of lead. See <http://www.epa.gov/Compliance/resources/cases/civil/rcra/leebrass.html>; Consent Decree in *United States et al. v. Lee Brass, Inc.* Civil Action No. 01-B-2422 (April 25, 2002). The lead-contaminated sand had been donated to county and city governments for use as fill on playgrounds and ballfields. Some lead levels were more than four times the 400 parts per

million exposure limit. Lead exposure is known to have significant human health effects, including developmental effects on children (available at <http://www.epa.gov/lead>). It is estimated that annually 0.5 million to 1 million pounds of sand containing about 500 to 1,000 pounds of lead had been sent off-site. The implementation of the settlement will reduce thousands of pounds of lead releases to the environment and eliminate public contact with the sand. EPA also issued an emergency order (imminent and substantial endangerment) to address the assessment and potential cleanup of the sand that had been sold or donated.

#### **Ashland, Incorporated Settlement:**

Ashland Inc., in Covington, Kentucky, pled guilty to criminal charges of negligent endangerment under the CAA, and to submitting a false certification to environmental regulators. The CAA violations led to an explosion and fire at a refinery that injured five persons, one severely. The agreement requires Ashland to pay \$3.5 million to the severely injured man and to pay medical costs for him and his family. The other four injured workers will receive \$10,000 each. Ashland has agreed to a \$3.5 million criminal fine and was required to pay \$50,000 to each fire department that responded to the incident. Ashland must also perform \$3.7 million in upgrades to the pollution control system at the refinery. *United States v. Ashland, Inc.*, U.S. District Court of Minnesota. CR 02-152.

#### **Increasing Compliance Through Assistance**

In FY 2002 EPA developed a wide range of information tools and services to help the regulated facilities, industry sectors, trade associations, compliance assistance providers, and the public to understand environmental compliance requirements. The Agency reached 589,566 entities in FY 2002 through compliance assistance activities that resulted in process or management changes that reduce emissions and noncompliance.<sup>11</sup>

In FY 2002 small and medium size businesses, local governments, federal facilities, and the public visited the 10 Internet-based



Compliance Assistance Centers more than 676,000 times, an increase of 39 percent from FY 2001. EPA created these Internet-based centers to help small and medium-sized businesses, local governments, and federal facilities to understand and comply with regulatory requirements. The 10 centers provide information and assistance for local governments, federal facilities, and the following industries: printing, metal finishing, automotive services and repair, agriculture, chemical manufacturers, paints and coatings, transportation, and printed wiring board manufacturers. In FY 2001 surveys of center users, 74 percent of survey respondents stated they had realized one or more environmental improvements as a result of center assistance, and 65 percent stated they had realized a cost savings. Compliance Assistance Center users will be surveyed again in FY 2003.<sup>12</sup>

EPA created an inventory of the Agency's existing compliance assistance tools and guides in FY 2002 to support the Business Compliance One-Stop Initiative. EPA also created The National Environmental Compliance Assistance Clearinghouse (<http://www.epa.gov/clearinghouse>), which is the repository for EPA's compliance assistance tools and guides. The clearinghouse, launched in FY 2001, is a Web-based, searchable reference tool that provides quick access to compliance assistance materials and allows interaction with EPA, states, and other compliance assistance providers. These initiatives support a Presidential Management Agenda reform for e-government.

Compliance assistance is also provided during EPA compliance inspections. In FY 2002 EPA conducted an assessment of about 4,000 inspections in 4 media programs and found that compliance assistance was provided during 76 percent of the inspections.<sup>13</sup>

### **Increasing Compliance Through Incentives**

In FY 2002 EPA's Audit and Self-Policing Policy<sup>14</sup> continued to provide a significant incentive for many regulated facilities to detect, disclose, and correct environmental violations in exchange for a waiver or significant reduction in

penalties.<sup>15</sup> The benefit to the public from this policy is that facilities come into compliance quickly, fewer government resources are expended to produce compliance, and emissions are reduced or eliminated. In FY 2002 more than 252 companies used this EPA policy to report and resolve violations at 1,467 facilities. Through initiatives to use the policy to improve environmental management at facilities, EPA actively solicits companies or industry sectors.

The Bakery Partnership Program (BPP),<sup>16</sup> designed to ensure full compliance with requirements protecting the ozone layer, was initiated in FY 2002 with the participation of 43 companies owning 250 baking facilities. The Compliance Assurance Program initiative,<sup>17</sup> a structured self-audit, was developed in coordination with the largest trade association representing the baking industry. The BPP involved an audit of 250 baking facilities that identified equipment releasing a refrigerant that causes ozone depletion. A schedule of penalties was established at the outset to ensure that owners would be aware of the penalties they would face as a result of the program. More than 800 machines, some containing thousands of pounds of refrigerant, now use non-ozone-depleting refrigerant as a result of this program.<sup>18</sup> Companies completing conversions before the start date of the initiative were assured that no penalties would be assessed.

EPA also promotes self-auditing by regulated facilities through developing audit protocols that can be used as part of an Environmental Management System (EMS).<sup>19</sup> An EMS is a continual cycle of planning, implementing, reviewing, and improving the processes and actions that an organization undertakes to meet its business and environmental goals. The Agency included EMS provisions in 90 settlements of enforcement cases.<sup>20</sup> EMSs affected more than 95 facilities because many recent settlements containing EMS provisions require a company to use EMSs corporate-wide.

## STATE AND TRIBAL PARTNER CONTRIBUTIONS

As a result of delegation authority provided for by most statutes, state, tribal, and local governments bear much of the responsibility for ensuring the compliance of regulated facilities and other entities. Nationally, states conduct the majority of all federally related inspection and formal enforcement actions and provide most of the data retained in EPA's enforcement and compliance data systems. State, tribal, and local law enforcement agencies continue to contribute to EPA's cooperative law enforcement efforts by participating in 93 criminal task forces and law enforcement coordinating committees across the country. To help build the capacity of state, local, and tribal programs, EPA sponsors a number of training courses and assists with enforcement inspections. In the past 3 years, EPA conducted 2,689 joint inspections with states, localities, and tribes.<sup>21</sup> In FY 2002 EPA trained 7,439 state, local government, and tribal personnel in inspection and enforcement skills. The data provided by states and tribal partners adds to national enforcement and compliance environmental performance information, thereby allowing the Agency to more accurately track its environmental and human health benefits to the public.

In addition to the responsibilities of state, tribal, and local governments discussed above, EPA partners make other significant contributions to ensure compliance with the Nation's environmental laws. Partners provide important feedback during the biennial selection of national priorities. Groups that represent the interests of state program partners also work closely with EPA.<sup>22</sup> These include such entities as the Environmental Council of the States (ECOS) and the National Association of Attorneys

General (NAAG), as well as media-specific associations like the State and Territorial Air Pollution Program Administrators/Association of Local Air Pollution Officials, Association of State and Interstate Water Pollution Control Administrators, and Association of State and Territorial Solid Waste Management Officials.

Through rigorous competition EPA selected 16 projects out of a total of 220 proposals submitted by states, tribes, and state universities for the support of inspector training, performance measurement, collaborative work planning, and data management. The 16 selected projects are part of an Agency funding program to build and support state and tribal compliance capabilities.<sup>23</sup> The selected proposals totaled \$2.05 million for projects to be carried out during FY 2003–2004. For example, the grant awarded to the Colorado Department of Public Health and Environment will supplement the use of traditional output measures with measures that assess the status and trends of regulatory compliance and environmental improvements resulting from enforcement and compliance assistance activities.<sup>24</sup> This will be a multimedia (air, water, and waste) system. In FY 2002 EPA began construction of a Web site to showcase the products of grants awarded during the past 4 years hoping that others can use the results of successful projects.

## ASSESSMENT OF IMPACTS OF FY 2002 PERFORMANCE ON THE FY 2003 ANNUAL PERFORMANCE PLAN

For FY 2003 Goal 9 proposed two new measures—environmental justice and public access to enforcement policy guidance. These two measures were formerly in Goal 7. One target for environmental justice grants was reduced due to performance results from previous years.

## Goal 9: A Credible Deterrent to Pollution

### Summary of FY 2002 Annual Performance Goals

**7** Goals Met

**1** Goals Not Met

**0** Data Lags

A description of the quality of the data used to measure EPA's performance can be found in Appendix B.

#### FY 2002 Obligations (in thousands):

EPA Total:	\$9,447,202
Goal 9:	\$451,345
Goal 9 Share of Total:	4.8%

#### FY 2002 Costs (in thousands):

EPA Total:	\$7,998,422
Goal 9 Costs:	\$387,545
Goal 9 Share of Total:	4.8%

Refer to page I-13 of the Overview (Section I) for an explanation of difference between obligations and costs.  
Refer to page IV-11 of the Financial Statements for a consolidated statement of net cost by goal.

## Annual Performance Goals (APG) and Measures FY 1999–FY 2002 Results

**Strategic Objective: EPA and Its State, Tribal, and Local Partners Will Improve the Environment and Protect Public Health By Increasing Compliance With Environmental Laws Through a Strong Enforcement Presence.**

*FY 2002 Cost (in thousands): \$330,072 (85.2% of FY 2002 Goal 9 Total Costs)*

**Progress Toward Strategic Objective:** Over the last 3 fiscal years, EPA prevented an estimated 1.6 billion pounds of pollutants from entering the air, waterways, and soil as a result of enforcement settlement provisions that require polluters to adopt better waste management practices; maintain permit levels for emissions, effluent, and runoff; and improve record keeping. The majority of enforcement settlements resolved in FY 2001 and FY 2002 required polluters to take decisive measures to reduce pollution, and change facility management and information practices. Over the past 3 fiscal years, EPA conducted 1,633 criminal investigations, 1,569 civil investigations, and 55,603 inspections. EPA-assisted inspections and training courses improved both inspection capability nationwide and the quality of environmental data collected by state and tribal regulators. EPA consistently meets its hazardous waste tracking responsibilities and homeland security support responsibilities that reduce the likelihood of United States-initiated transboundary hazardous waste pollution, and improve America's response and deterrence capability to combat domestic terrorism.

APG 58	Non-Compliance Reduction	Planned	Actual
FY 2002	EPA will direct enforcement actions to maximize compliance and address environmental and human health problems; 75% of concluded enforcement actions will require environmental or human health improvements such as pollutant reductions and/or changes in practices at facilities. <b>Goal Not Met.</b>		
	<u>Performance Measures</u>		
	- 75% of concluded enforcement actions require physical action that result in pollutant reductions and/or changes in facility management or information practices.	75%	77%
	- Millions of pounds of pollutants required to be reduced through enforcement actions settled this fiscal year.	300 M	261 M
	- Develop and use valid compliance rates or other indicators of compliance for selected populations.	5 populations	5 pop.
	- Reduce by 2 percentage points overall the level of significant noncompliance recidivism among CAA, CWA, and RCRA programs from FY 2000 levels.	2%	data available in FY 2003
	- Increase by 2% over FY 2000 levels the proportion of significant noncomplier facilities under CAA, CWA, and RCRA which returned to compliance in less than 2 years.	2%	data available in FY 2003
	- Produce report on the number of civil and criminal enforcement actions initiated and concluded.	1	data available in FY 2003
FY 2001	Same Goal, different targets. <b>Goal Met.</b>		
	<u>Performance Measures</u>		
	- 75% of concluded enforcement actions require pollutant reductions and/or changes in facility management or information practices.	75%	79%
	- Estimated pounds of pollutants reduced.	350 M	660 M

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- Increase or maintain existing compliance rates or other indicators of compliance for populations with established baselines, or develop additional rates for newly selected populations.	5 populations	6
- Reduce by 2 percentage points overall the level of significant non-compliance recidivism among the Clean Air Act (CAA), Clean Water Act (CWA), and Resource Conservation and Recovery Act (RCRA) programs from FY 2000 levels.	2%	2.4%
- Increase by 2% over FY 2000 levels the proportion of significant non-complier facilities under CAA, CWA, and RCRA which returned to compliance in less than 2 years.	2%	1.33%
- Produce a report on the number of civil and criminal enforcement actions initiated and concluded.	1	1

FY 2000 Same Goal, different targets. *Goal Met.*

Performance Measures

- Percent of actions which require pollutant reductions.	35%	13.6
- Estimated pounds of pollutants reduced (aggregate).	300 M	714 M
- Establish statistically valid noncompliance rates or other indicators for selected environmental problems.	5	5
- Establish a baseline to measure percentage of significant violators with reoccurring significant violations within 2 years of returning to compliance.	1	1
- Establish a baseline to measure average length of time for significant violators to return to compliance or enter enforceable plans/agreements.	1	1
- Produce report on the number of civil and criminal enforcement actions initiated and concluded.	1	1

**FY 2002 Result:** Currently, data are available for three of the six performance measures under this goal. Because the missed pollution reduction measure is a key element for determining goal status, the Agency was able to designate this APG as not met without data for the remaining three measures. The remaining performance data are expected to be available by February 2003.

During 2002 the Agency achieved a level of 261 million pounds of pollutants to be reduced through enforcement, falling short of its target of 300 million pounds. Because the Agency does not establish quotas for the number of enforcement cases to be pursued, the anticipated pollution reduction target is an estimate based on the results of concluded enforcement actions from previous years, and frequently displays wide variation from year to year. Of enforcement settlements this fiscal year, 77% required polluters to take decisive measures to reduce pollution and change facilities management and information practices around the country. EPA met its goal to develop statistically valid compliance rates for five new populations. The Agency uses these analyses of compliance trends to determine where the most significant environmental problems are, and where best to focus its resources. In FY 2002 EPA calculated statistically valid compliance rates for the following areas: municipality compliance with nine minimum controls to prevent, monitor, and control combined sewer overflows (CSOs); commercial facilities' compliance with Clean Air Act Maximum Achievable Control Technologies (MACTs) for ethylene oxide; municipality compliance with biological oxygen demand and total suspended solid permit limits; and petroleum refining facilities' compliance with ammonia permit limits.

**FY 2001 Result Available in FY 2002:** This performance result has been updated to reflect information received after the FY 2001 Annual Report date of publication.

APG 59	Inspections/Investigations	Planned	Actual
FY 2002	EPA will conduct inspections, criminal investigations, and civil investigations targeted to areas that pose risks to human health or the environment, display patterns of non-compliance or include disproportionately exposed populations. <i>Goal Met.</i>		
	<u>Performance Measures</u>		
	- Number of EPA inspections conducted.	15,500	17,668
	- Number of criminal investigations.	400	674
	- Number of civil investigations.	200	541
FY 2001	Same Goal, different targets. <i>Goal Met.</i>		
	<u>Unit Measures</u>		
	- Number of inspections.	17,000	17,812
	- Number of criminal investigations.	450	482
	- Number of civil investigations.	250	368
FY 2000	Same Goal, different targets. <i>Goal Not Met.</i>		
	<u>Performance Measures</u>		
	- Number of EPA inspections.	13,500	20,123
	- Number of civil investigations.	150	660
	- Number of criminal investigations.	500	477
	- Percent of inspections and investigations (civil and criminal) conducted at priority areas.	50%	15%
FY 1999	Deter non-compliance by maintaining levels of field presence and enforcement actions, particularly in high risk areas and/or where populations are disproportionately exposed. In 1999, EPA will conduct 15,000 inspections and undertake 2,600 enforcement actions. <i>Goal Met.</i>	15,000 2,600	21,410 3,935



**FY 2002 Result:** EPA greatly exceeded its performance goal to provide a credible deterrent to polluters through a strong enforcement presence. In 2002 EPA exceeded performance targets for investigations and inspections, performing 674 criminal and 541 civil investigations, and 17,668 inspections. A strong enforcement presence in the field provides a strong incentive for industries and other regulated entities to continue to comply with environmental laws, and ensures that polluters do not experience financial benefits from persistent non-compliance.

APG 60	Capacity Building	Planned	Actual
<b>FY 2002</b>	<b>Improve capacity of states, localities and tribes to conduct enforcement and compliance assurance programs. EPA will provide training as well as assistance with state and tribal inspections to build capacity, including implementation of the inspector credentials program for tribal law enforcement personnel. <i>Goal Met.</i></b>		
	<u>Performance Measures</u>		
	- Number of EPA training classes/seminars delivered to states, localities and tribes to build capacity.	200	319
	- Conduct EPA-assisted inspections to help build state program capacity.	400	1,081
	- Provide tribal governments with 50 computer-based training (CBT) modules.	50	116
	- Total number of state and local students trained.	4,900	6,631
	- Train tribal personnel.	95	808
<i>FY 2001</i>	<i>Same Goal, different targets. <i>Goal Met.</i></i>		
	<u>Performance Measures</u>		
	- Number of EPA training classes/seminars delivered to states, localities and tribes to build capacity.	220	128
	- Conduct EPA-assisted inspections to help build state program capacity.	150	895
	- The National Enforcement Training Institute will provide tribal governments with 50 computer-based modules.	50	235
	- Total number of state and local students trained.	4,900	4,727
	- The National Enforcement Training Institute will train tribal personnel.	105	428
<i>FY 2000</i>	<i>Same Goal, different targets. <i>Goal Met.</i></i>		
	<u>Performance Measures</u>		
	- Number of EPA-assisted inspections to build capacity.	100	713
	- Number of EPA training classes/seminars delivered to state/localities and tribes to build capacity.	200	154
<i>FY 1999</i>	<i>Assist states and tribes with their enforcement and compliance assurance and incentive programs. EPA will provide specialized assistance and training, including 83 courses, to state and tribal officials to enhance the effectiveness of their programs. <i>Goal Met.</i></i>	83	218

**FY 2002 Result:** Capacity building efforts greatly assist EPA in meeting annual performance targets each year as the bulk of statutory reporting requirements is delegated to state and tribal entities. Better understanding of environmental requirements and inspection techniques improves the consistency of enforcement and compliance work, thereby improving the quality of environmental data collected and reported. For FY 2002, the Agency collected training performance data from EPA regional offices, whereas in the past, EPA headquarters training performance data were the only data collected. Therefore, performance for state, local, and tribal capacity building training is considerably above the planned performance target for FY 2002, and more accurately depicts the full spectrum of EPA capacity building nationwide. Beginning in FY 2003, EPA will track these performance measures internally.

APG 61	Quality Assurance	Planned	Actual
<b>FY 2002</b>	<b>Maintain and improve quality and accuracy of EPA's enforcement and compliance data to identify noncompliance and focus on human health and environmental problems. <i>Goal Met.</i></b>		
	<u>Performance Measures</u>		
	- Operate 14 information systems housing national enforcement and compliance assurance data with a minimum of 95% operational efficiency.	95%	95%
	- Have Phase I of the Integrated Compliance Information System (ICIS) fully operational in March 2002.	Phase 1	Phase 1
<i>FY 2001</i>	<i>Same Goal, different targets. <i>Goal Met.</i></i>		
	<u>Performance Measures</u>		
	- Continue operation and maintenance/user support of 14 information systems housing national enforcement and compliance assurance data with a minimum of 95% operational efficiency.	95%	95%
	- Complete Phase I of Integrated Compliance Information System (ICIS) development (programming) and begin design of Phase II.	Phase 1	Phase 1
	- Complete Quality Management Plan (QMP) project for additional data systems.	3	0
	- Complete detailed design (development of screens, prototypes) including a pilot NPDES	1	1

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- *permitting desk model for Permit Compliance System (PCS) system modernization.*
- *Conduct four data analyses of environmental problems in Indian Country using the American Indian Lands Environmental Support Project (AILESP) and the baseline assessment survey.* 4 12

**FY 2002 Result:** Data modernization efforts begun in previous fiscal years resulted in the implementation of the Integrated Compliance Information System (ICIS) in June 2002. ICIS will enhance environmental data analysis capabilities and allow for more informed decision-making for populations of the regulated community that emit a disproportionate share of pollution, or those regulated entities that persistently violate environmental laws and permits.

APG 62	International Enforcement	Planned	Actual
FY 2002	Ensure compliance with legal requirements for proper handling of hazardous waste imports and exports. <b>Goal Met.</b>		
	<u>Performance Measure</u>		
	- Evaluate 100% of the notices for transboundary movement of hazardous wastes, ensuring their proper management in accordance with international agreements.	100%	100%
FY 2001	Same Goal. <b>Goal Met.</b>	100%	100%
FY 2000	Same Goal, different targets. <b>Goal Met.</b>		
	<u>Performance Measure</u>		
	- Ensure compliance with legal requirements by assuring that hazardous waste exports from the United States are properly handled (number of import and export notices filed and reviewed).	1,500	1,584

**FY 2002 Result:** In FY 2002 EPA met its goal to prevent transboundary discharge of hazardous waste from sources in the United States.

APG 63	Homeland Security	Planned	Actual
FY 2002	EPA will provide direct investigative, forensic, and technical support to the Office of Homeland Defense, FBI and/or other federal, state and local law enforcement agencies to help detect and prevent, or respond to, terrorist-related environmental, biological or chemical incidents. <b>Goal Met.</b>	100%	100%

**FY 2002 Result:** EPA met its goal to provide homeland security support to federal, state, and local entities in FY 2002.

**Strategic Objective: EPA and Its State, Tribal, and Local Partners Will Promote the Regulated Communities' Compliance With Environmental Requirements Through Voluntary Compliance Incentives and Assistance Programs.**

*FY 2002 Cost (in thousands): \$57,473 (14.8% of FY 2002 Goal 9 Total Costs)*

**Progress Towards Strategic Objective:** EPA encourages regulated sectors to maintain compliance through a variety of incentive programs tailored for specific sectors that represent the greatest need due to past compliance patterns or for sectors that are highly motivated to improve their environmental performance. Initiatives undertaken this fiscal year provided enhanced ozone layer and watershed protection, among other environmental and human health benefits. The total number of facilities that voluntarily implement better self-monitoring of waste streams, emissions, and runoff continues to increase as more members of the regulated community respond to incentives to disclose environmental violations for reduced financial penalties. Over the past 3 fiscal years, 5,421 facilities participated in voluntary incentive programs to identify and correct violations at facilities around the country. These incentive programs expand the reach of EPA's regulatory efforts by increasing the total number of facilities monitored over and above the population of facilities that receive conventional enforcement inspections and investigations in a given fiscal year.

APG 64	Compliance Incentives	Planned	Actual
FY 2002	Increase opportunities through new targeted sector initiatives for industries to voluntarily self-disclose and correct violations on a corporate-wide basis. <b>Goal Met.</b>		
	<u>Performance Measure</u>		
	- Facilities voluntarily self-disclose and correct violations with reduced or no penalty as a result of EPA self-disclosure policies.	500	1,467
FY 2001	Same Goal. <b>Goal Met.</b>	500	1,754
FY 2000	Increase entities self-policing and self-correction of environmental problems through use of EPA incentive policies: small business, small community and audit policies over FY 1997 levels. <b>Goal Met.</b>		
	<u>Performance Measure</u>		
	- Number of facilities that self-disclose potential violations.	346	2,200

**FY 2002 Result:** The number of facilities that participated in voluntary self-audit programs to monitor and assess compliance with environmental requirements greatly exceeded initial performance targets by more than 400 facilities. Self-disclosure programs increase the number of facilities in compliance at any given time through more frequent environmental monitoring that protects human health and the environment from accidental release of excessive pollution and quick detection of permit and statutory violations. Voluntary compliance incentive programs increase the frequency of environmental monitoring at facilities, augmenting the total number of facilities participating in environmental protection efforts. These voluntary programs encourage facilities to disclose pollution violations and set timetables for meeting legal requirements for maximum pollution release limits.

APG 65	Environmental Management Systems	Planned	Actual
FY 2002	Promote the use of Environmental Management Systems (EMS) to address known compliance and performance problems. <b>Goal Met.</b>		
	<b>Performance Measure</b>		
	- Increase EMS use by developing tools, such as training, best practice manuals, and other resources that encourage improved environmental performance.	3	27
FY 2001	Same Goal, different target. <b>Goal Met.</b>	3	10

**FY 2002 Result:** EPA exceeded this APG through an increased emphasis on EMS outreach to the regulated community. The Agency provided additional guidance on development of better management practices to protect the environment and initiated numerous site visits to encourage application of EMSs within the regulated community. In FY 2002 EPA renewed its emphasis on encouraging noncompliers to adopt better management practices through enforcement settlement agreements that require the adoption of EMSs at facilities. EPA responded to environmental management problems at federal facilities by increasing assistance provided to these regulated entities. Multiple EMS courses provided to states, regions, and federal facilities throughout FY 2002 also contributed to superior EMS performance.

**Notes:**

1. U.S. EPA, Office of Enforcement and Compliance Assurance, ICIS Phase I, implemented June 2002. Internal EPA database; non-enforcement sensitive data available to the public through the Freedom of Information Act (FOIA).
2. U.S. EPA, Office of Enforcement and Compliance Assurance, Case Conclusion Data Sheets (CCDS). Forms available at <http://www.epa.gov/compliance/resources/publicatines/>.
3. The data in this paragraph were taken from the U.S. EPA, Office of Enforcement and Compliance Assurance, Measures of Success (MOS) Reports 1999–2001. Copies of 2000 and 2001 available at <http://www.epa.gov/compliance/planning/results/mos.html>. *FY 1999 RECAP Measures of Success Report Management Report*, signed April 12, 2000.
4. U.S. EPA, Office of Enforcement and Compliance Assurance, Case Conclusion Data Sheets (CCDS).
5. U.S. EPA, Office of Enforcement and Compliance Assurance, Integrated Data for Enforcement Analysis (IDEA) database. Information for accessing non-enforcement sensitive data available at <http://www.epa.gov/compliance/planning/data/multimedia/idea/users.html>.
6. This information was collected manually through the U.S. EPA, Office of Enforcement and Compliance Assurance, Inspection Conclusion Data Sheets (ICDS). This information is internal to EPA and not currently accessible through a database or Web site.
7. U.S. EPA, Office of Enforcement and Compliance Assurance, *National Performance Measures Strategy—Final Report for Public Distribution*, signed February 1998.
8. U.S. EPA, Office of Enforcement and Compliance Assurance, Case Conclusion Data Sheets (CCDS).
9. U.S. EPA, Office of Enforcement and Compliance Assurance, ICIS Phase I.
10. U.S. EPA, Office of Enforcement and Compliance Assurance, Integrated Data for Enforcement Analysis (IDEA) database.
11. The information in this paragraph was collected from exit surveys completed by users of the National Compliance Assistance Centers found at <http://www.assistancecenters.net/>.
12. Ibid.
13. This information was collected manually through the U.S. EPA, Office of Enforcement and Compliance Assurance, Inspection Conclusion Data Sheets (ICDS).
14. U.S. EPA, EPA's Audit and Self-Policing Policy, Incentives for Self Policing: Discovery, Disclosure, Correction and Prevention of Violations (65 FR 19,618; April 11, 2000).
15. U.S. EPA, Office of Enforcement and Compliance Assurance, Compliance Incentives & Auditing. Available at <http://www.epa.gov/compliance/incentives/auditing/auditpolicy.html>.
16. The Bakery Partnership Program (BPP) was proposed on December 10, 2001, at 66 FR 63696; final promulgation was February 6, 2002, at 67 FR 5586.
17. U.S. EPA, Office of Enforcement and Compliance Assurance, Compliance and Enforcement. Partnership and links to the *Federal Register* citations available at <http://www.epa.gov/compliance/civil/programs/caa/bakery/index.html>.
18. U.S. EPA, Office of Enforcement and Compliance Assurance, Compliance and Enforcement. Available at [http://www.epa.gov/compliance/resources/policies/docket\\_hcsearch.html](http://www.epa.gov/compliance/resources/policies/docket_hcsearch.html) and search for Docket EC-2001-007 for a listing of participating companies.
19. U.S. EPA, Office of Enforcement and Compliance Assurance, Environmental Management Systems. Information available at <http://www.epa.gov/ems>.
20. U.S. EPA, Office of Enforcement and Compliance Assurance, Case Conclusion Data Sheets (CCDS).
21. U.S. EPA, Office of Enforcement and Compliance Assurance, Integrated Data for Enforcement Analysis (IDEA) database.
22. U.S. EPA, Office of Enforcement and Compliance Assurance, State and Tribal Partner Contribution, 65 FR 68786.
23. U.S. EPA, Office of Enforcement and Compliance Assurance, State and Tribal Partner Contribution, 67 FR 72184.
24. U.S. EPA, Office of Enforcement and Compliance Assurance, State and Tribal Assistance Grants #BG998474.